

Ser. No.: 10/803,720

Atty. Docket No.: 6579-0129-1

Art Unit: 3724

Amendment and Reply dated April 24, 2006

In Response to Final Office Action of February 24, 2006

**REMARKS**

Claims 1-19 are pending and were examined. Claims 1-19 have been rejected by the Examiner under 35 U.S.C. §112 first and second paragraphs, and under 35 U.S.C. §103(a). No claims were objected to and no claims were allowed. The rejection of Claims 1-19 has been made final. The Examiner objects to the disclosure under 37 CFR §1.71.

By this Request for Reconsideration, no claims are proposed to be amended, canceled or added. Accordingly, Claims 1-19 are presented for further examination. Favorable reconsideration of this application in light of the following discussion is respectfully requested.

**Objection to the Specification:**

The Examiner has objected to paragraphs [0006]-[0008] and [0011]-[0014] of the disclosure under 37 CFR §1.71. These objections are respectfully disagreed with, and are traversed below.

The arguments made previously are incorporated by reference herein in their entireties.

In summary, the Examiner maintains and now, makes final, an objection to the Specification alleging that from the ratios stated it is not clear as to the actual size of the handle and it is not clear as to the position of the handle's largest width.

Applicants respectfully submit that the relevant portion of 37 CFR §1.71 requires:

"(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same." (emphasis added).

The present invention is directed to an ergonomic handle for a shaving implement. As noted in the Background Section of the Specification, the prior art includes numerous shaving implement handle designs that emphasize style over ergonomics and comfort. See paragraph [0004] of the Specification.

Regardless of the actual size of a shaving implement, it is respectfully submitted that one skilled in the art would appreciate how a handle's length, width and height cooperate to provide

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comfort and ease of use to prospective users of the implement. The present application defines specific ranges of preferred length, width and height of an inventive shaving implement in terms of ratios between these elements such that an ergonomic handle design is achieved. Contrary to the Examiner's assertion, it is respectfully submitted that with these specified ratios in hand, one skilled in the art would clearly be able to make and use the inventive ergonomic handle without the need of an actual size of any one of these elements.

With respect to the Examiner's objection that the Specification is unclear as to the position of the largest width of the inventive ergonomic handle as specified in paragraphs [0007] and [0012], it is respectfully submitted that paragraphs [0007] and [0012], and FIG. 1 of the Specification define a position of the largest width of the inventive handle by the label "W1." Paragraph [0012] provides further specificity of the location of the largest width by disclosing that the location of the largest width is "37% along the length L2 of the handle taken from the tip." Applicants submit that one skilled in the art would clearly know the location of the largest width of the handle. For example, the "tip" and its location are clearly defined in the specification as is the length L2. Accordingly, a location about 37% along the length from the tip (e.g., the largest width) is equivalent to  $.37 \times L2$ .

Therefore, contrary to the Examiner's assertion, it is respectfully submitted that with the aforementioned description one skilled in the art would clearly know the location of the largest width of the inventive ergonomic handle.

The Examiner also alleges that paragraphs [0008], [0013] and [0014] are not clear because the size of the handle has not been clearly defined and therefore the placement of both the pinch point and the center of balance are not clearly defined. With reference to FIGS. 1 and 2, the specification clearly describes the position of both the pinch point "P" and the center of balance "C." For example, paragraph [0013] states that the pinch point "P" is "located adjacent to the head section 16 of the handle 10 about 30 to about 50 mm away from an end 18 of the head section." Paragraph [0014] further defines the position of the center of balance relative to the pinch point by stating that the "pinch point "P" is located about 10 to about 25 mm away

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from the center of balance." FIG. 1 clearly shows the center of balance being positioned between the tip and the pinch point. Accordingly, the location of the pinch port and the center of balance, rather than being unclear, as the Examiner asserts, are precisely defined.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw the objection to paragraphs [0006]-[0008] and [0011]-[0014] of the disclosure under 37 CFR §1.71 at least since the Specification (e.g., written description and drawings) provides a clear, concise, and exact description so as to enable any person skilled in the art to which the invention relates to make and use the inventive ergonomic handle.

Rejection of Claims under 35 U.S.C. §112, first and second paragraphs:

The Examiner maintains and now, makes final, a rejection of Claims 1-19 under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the enablement requirement and alleging that the subject matter of Claims 1-19 was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. This rejection is respectfully disagreed with, and is traversed below.

In summary, the Examiner's rejection is based on the allegations that the actual size of the handle is not clear and that it is not clear as to the position of the handle's largest width, pinch point and center of balance.

The Examiner's attention is again directed to the written description and FIGS. 1 and 2. It is respectfully submitted that the invention as claimed is enabled. From the original disclosure, one skilled in the art of razor handle design would be able to make and/or use the invention without undue experimentation. For example, the present invention, as taught and claimed, is directed to an ergonomic handle that is defined by ratios so that regardless of an overall size of a particular handle, a handle that conforms to the specified ratios exhibits the ergonomic characteristics of the invention. That is, providing an actual size of the handle provides little insight into the ergonomic characteristics. Rather, it is the knowledge of the

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specified ratios that allows one skilled in the art to design larger or smaller handles that would still maintain the recited ergonomic character. For at least these reasons, the Applicants respectfully request the Examiner to reconsider and withdraw the rejection of Claims 1-19 under 35 U.S.C. §112, first paragraph.

The Examiner also maintains and now, makes final, a rejection of Claims 1-19 under 35 U.S.C. §112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner alleges that independent claims 1, 7 and 13 all include indefinite terminology because the actual operable size of the handle and pinch point is not clearly defined. This rejection is respectfully disagreed with, and is traversed below.

It is well settled that “[t]he test for definiteness is whether one skilled in the art would understand the bounds of the claim when read in light of the specification. If the claims read in light of the specification reasonably apprise those skilled in the art of the scope of the invention, 35 U.S.C. §112 demands no more. The degree of precision necessary for adequate claims is a function of the nature of the subject matter.” Miles Laboratories, Inc. and Triangle Biomedical Equipment, Inc. v. Shandon Inc. and Shandon Southern Products Ltd., 997 F.2d 870, 877 (Fed. Cir. 1993)(quoting Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1576 (Fed. Cir. 1986).

It is respectfully submitted that the specified ratios as taught and claimed clearly define the ergonomic handle of the present invention. In respectfully disagreement with the Examiner, there is no requirement that the actual size of an invention be recited in the claims. And, the claim limitations directed to the specified ratios are reasonably precise in light of the subject matter of the present invention as one skilled in the art would clearly understand the bounds of independent Claims 1, 7 and 13 when read in light of the specification.

In view of the above, the Applicants respectfully request that the Examiner reconsiders and withdraws the rejection of Claims 1-19 under 35 U.S.C. §112, second paragraph.

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Prior Art Rejection:

The Examiner maintains and now, makes final, the rejection of Claims 1-19 under 35 U.S.C. §103(a) as being unpatentable over U.S. Design Patent No. 445,958 to Dansreau et al. (Dansreau et al.), directed to a razor handle. This rejection is respectfully disagreed with, and is traversed below.

In the rejection the Examiner states that "Dansreau does not disclose the specific ratios claimed, however, to the degree that the purpose of the handle structure in Dansreau is to provide an ergonomic structure, to vary a particular length, width and height along the handle to fit appropriately in a particular size of hand would be an obvious matter of choice in size variation to obtain a desired level of comfort." See page 4 of the Office Action.

As previously argued, Dansreau et al. is not seen to disclose a purpose of providing an "ergonomic structure" as the Examiner asserts. In fact, Dansreau et al. as a design patent, discloses no dimensions or relationships between features whatsoever let alone the specified ratios and dimensions recited in independent Claims 1, 7 and 13.

Applicants respectfully submit that Claims 1, 7 and 13 are allowable over Dansreau et al. Since these independent claims are deemed allowable, the claims that depend from and further limit these claims, are deemed allowable. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of Claims 1-19 under 35 U.S.C. §103(a) as being unpatentable over Dansreau et al.

Applicants believe that the foregoing remarks are fully responsive to the Office Action and the claims are allowable over the reference applied by the Examiner. Applicants respectfully request that the Examiner reconsider the present application, remove the objections and rejections, and allow the application to issue.

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Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited. To expedite prosecution of this application to allowance, the Examiner is invited to call the undersigned attorney to discuss any issues relating to this application.

No fee is believed due with the filing of this Amendment and Rcply. However, if a fee is due, Applicant authorizes the payment of any additional charges that may be necessary to maintain the pendency of the present application to the undersigned attorney's Deposit Account No. 503342.

Respectfully submitted,  
Michaud-Duffy Group, LLP

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